(4)

No. 04-671

IN THE

Supreme Court of the United States

VanGuilder v. USA and NY

Petitioner's 2nd Supplemental Brief
Rules 15.8, 18.10 and 37.2(a)

To the U.S. Court of Appeals, District of Columbia
And to the New York State Court of Appeals

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NEW MATTERS

(1). The NYCA dismissed the appeal. Appendix, p. 2a.

BRIEF

(1). I repeat that I rely upon the principle of equity *Fraud Vitiates All* and in relation thereto I welcome the evidence presented by the reasons for judgment of the Court of Appeals for the State of New York, Hon. Judith S. Kaye, Chief Justice, presiding. Appendix, 2a.

(2). The legislative authorities cited by Kaye, CJ, prove the opposite to the proposition of law for which she contended. Appendix, 3a.

(3). This may be the reason the U.S. Constitution provides for the U.S. Supreme Court itself to perform the first instance adjudicative function in relation to competing quasi-sovereignties. *Constitution*, Art. III, §2, cl. 1, 4 and 5.

(4). Prior to Independence that jurisdiction vested in the Judicial Committee of the Privy Council.[1]

(5) Until now it has not been settled what happened to that previously established jurisdiction upon the transition of the crown's former jurisdictions to the People of the United States. Apparently they assigned it to the Supreme Court of the United States. Really there is no place else it rationally could have gone. Continuity rather than lapse is presumed by operation of law alone, precisely because the rule of law abhors a vacuum which risks anarchy and physical self-defence for lack of a rule of law remedy.

January 10, 2005. **Respectfully submitted,**

/s/
Edward VanGuilder

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[1] Full particulars are in Joseph H. Smith, *Appeals to the Privy Council from the American Plantations,* New York, Columbia University Press, 1950.

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State of New York
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the sixth day of January 2005.

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

Mo. No. 1184 SSD 78

Edward VanGuilder,

Appellant,

v.

State of New York,

Respondent..

The appellant having filed notice of appeal in the above title and due consideration having been thereupon had, it is

ORDERED, that the appeal be and the same hereby is dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see, NY Const. art VI, §3(b); CPLR 5601).

/s/

Stuart M. Cohen
Clerk of the Court

NY Constitution

Article VI, §3(b). Appeals to the court of appeals may be taken in the classes of cases hereafter enumerated in this section;...In civil cases and proceedings as follows:...(2) As of right, from a judgment or order of a court of record of original jurisdiction which finally determines an action or special proceeding where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States; and on any such appeal only the constitutional question shall be considered and determined by the court.

Civil Practice Law and Rules (CPLR)

5601. Appeals to the court of appeals as of right....(b) Constitutional grounds.